

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Mary Jane Baker, Chairman, presiding.

Members Present: Mary Jane Baker, Bill Maxwell, and Albert Stewart.

Members Absent: Bill Hobbs and Rick Durham.

Also Present: Cory Wilson, Executive Director, Judy King, Plan Reviewer, Gerald Shine, Jr., Attorney and Beverly Guignet, Secretary.

## **CURRENT BUSINESS**

1. Roll call was taken with two members, Rick Durham and Bill Hobbs being absent.
2. The minutes of the preceding meetings were distributed to each member prior to the meeting. It was the consensus of the Board to approve the minutes with the corrections as stated.

### **New Business**

2. **Petition: 2010-SU-002 Special Use Zoning: CR**  
Address: 4498 West Eighth Street Road, Anderson  
Location: North side of Eighth Street Road, West of CR 400 West  
Petitioner: Town of Edgewood – Contact: Dick Donnelly  
Request: Requesting a Special Use to provide for the construction of a Municipal Sewage Treatment Plant. (Section 3.5 states a sewage treatment plant requires a Special Use in a Conservation Residential (CR) zone district.)

Terry Ayers, 302 Edgewood Place, Anderson was present and told the Board he was only here today to see how the procedure and the process works on this request. And that he would like to see a decision made quickly on this.

Brenda Miller, 4318 W 8<sup>th</sup> Street was present and gave the Board a petition in opposition to this request.

Mrs. Miller was informed this would be made part of the record when the petition is discussed.

The vote was unanimous in favor of the motion. **Petition #2010-SU-002 Special Use has been tabled until the May meeting.**

Director Wilson informed the Board a 30 day continuance request has been received for Petition #2010-SU-002 Special Use. The petitioner delivered a letter to staff last week asking for a 30 day continuance on this petition.

Also, with just three members on the Board that are present it would take a unanimous vote of any decision made today in order for it to be carried.

Member Maxwell moved to accept the continuance request from the Petitioner to continue Petition #2010-SU-002 Special Use until the May meeting.

Member Stewart seconded the motion

The Board then went on to the following petition.

**1. Petition: 2010-SU-003 Special Use    2010-V-002 Variance    Zoning: R-1**

Address: 2109 West Huntsville Rd., Pendleton

Location: South side of Huntsville Road, across from Hickory Hills Subdivision

Petitioner: Petitioners: ERS Telecom Properties/Steve Woody

Owners: Ronald & Doris Filbrun

Request: A Special Use to provide for the construction of a Self Supporting Wireless Communication Tower in an R-1 zoning district. (Section 3.7 states a wireless telecommunications facility/tower requires a Special Use in an R-1(Residential) zoning district)

A Variance to provide for the construction of a 199' tall Wireless Communication Tower. (Section 6.18 TF-02 (B) of the Madison County Land Use & Development Code states that the maximum height of such a tower shall be 125 feet.)

Director Wilson distributed maps showing coverage with the tower and coverage without proposed. The closest one is approximately two miles away.

Steve Woody, 4515 S High School Road, Indianapolis, was present representing this petition.

ERS is a Wireless Communication Company that provides two way radio services around Indiana. They also provide wireless internet and nationwide cellular service.

A 5,600 square foot lease has been signed with the landowners. The 195 foot tower would sit behind the barn and at least 500 feet from Huntsville Road. The tower will be under the 200 foot FAA lighting regulations. This will be a very small structure with no guide wires or lights, it will be monopole and it will be completely fenced. It will serve several different purposes. Including use as a microwave dish that will connect Indianapolis and Muncie. It will supply wireless internet to the community. AT & T has requested to use our tower. With space to provide up to four additional service providers.

Doug Swackhammer, 2130 W US 36.

Mr. Swackhammer told the Board he is requesting this be continued. The reason being, he doesn't want to look at the pole. He doesn't want it in his backyard. He wants to make sure it isn't visible from his property.

Mr. Woody stated his house is behind the tree line and the barn and it would not be visible to Mr. Swackhammer. Maybe the very top of the pole but not much beyond that.  
Stephanie Young-Helou, 1955 Deer Crossing, Hickory Hills East, Pendleton.

Mrs. Young-Helou stated she does not think the tower will interfere with the ambiance of the area.

Director Wilson stated at this time, Staff **recommends approval** for this special use & variance request.

- ◇ The subject site is a 130-acre parcel located along the south side of Huntsville Road, just east of Pendleton. The property is zoned R-1 (residential-one) and is surrounded by R-1 and R-2-zoned property. North of the subject site is Hickory Hill and Hickory Hills East. A single-family dwelling is located to the west and to the east with a large wooded area to the south. The Comprehensive Plan recommends residential development for this area. This request would provide for the construction of a 199-foot tall wireless communication tower.

#### **SITE PLAN**

- ◇ *The Madison County Land Use & Development Code* requires a special use grant from the Board for all wireless communication tower located in the R-1 zoning district. Further, the Ordinance does not permit towers to exceed 125 feet in height in the R-1. The reason for these provisions is to ensure that the residential areas of the County do not become proliferated with tall towers, which can be considered unsightly by some. The nearest tower to this proposed location would be 2.19 miles to the northwest, west of Interstate 69.
- ◇ According to the site plan, the lease area for this tower would be approximately 5,000 square feet and located directly behind the existing barns on the lot, a distance of 540 feet from Huntsville Road. Access would come from an existing access and utility easement off of Huntsville Road. With the lease area over 500 feet from Huntsville Road and well over a 1,000 feet from the nearest dwelling, Staff has no issue with the location or height of this proposed structure.

#### **FINDINGS OF FACT**

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* No, the facility would be fenced, screened and off-limits to the public and only accessible from private property.
2. *Will the requirements and development standards set forth in the district for such exception be met?* Yes. The proposed tower would all be constructed per Indiana Building code, landscaped and oriented to meet all local zoning requirements, with the exception of the height.
3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?* No, there is no proof that cellular towers lower property values.
4. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?* No, the Comprehensive Plan recommends single-family development for this area; however, wireless communication towers do not receive a land use recommendation, these uses tend to develop when and where needed.

The Board was informed proper notification was given.

No remonstrators were present.

Member Maxwell made a motion to approve Petition #2010-SU-003 Special Use for only the 5,625 square feet lease area; no other towers on the farm; all additional permits be in the office prior to ILP being issued; the tower to be removed within 12 months after it is discontinued. It will not be injurious to the public health, safety and general welfare of the community; It will be constructed per Indiana Building Code; There is no proof that cell towers lower property values; It is a used that will benefit the whole community around the cell tower; And per staff recommendations.

Member Stewart seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2010-SU-003 was approved.**

Member Maxwell made a motion to approve Petition #2010-V-002 Variance for 74 feet from the standard recommended by the Ordinance and as per staff recommendations and Findings of Fact.

It will not be injurious to the public health, safety and general welfare of the community; It will be constructed per Indiana Building Code; There is no proof that cell towers lower property values; And the use of this development will serve the need of most people in the area that use that sort of service.

Member Stewart seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2010-V-002 was approved.**

3. Miscellaneous – Mr. Shine stated concerning the K.C.C.A. it has now been transferred to the Supreme Court of Indiana. They have not determined whether they will accept it yet. I will keep the Board advised as to what is taking place on this matter.

Member Maxwell made a motion, seconded by Member Stewart to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 10:22:09 A.M.

---

Mary Jane Baker, Chairman

---

Beverly Guignet, Secretary

